

1888-632 Chancery Causes: F. S. McDonald vs. Lewis Ely  
Lee Co.

CA-Debt  
T-Property

-Deed

To The Hon. H. S. K. Morrison Judge of  
the Circuit Court of Lee Co Va.

Your orator H. S. McDonald  
humbly complaining, would re-  
spectfully represent, that on the  
8th day of Sept; 1885, he sold to  
one Lewis Ely a tract or parcel of  
land situated in Lee County Va  
properly described in your orator's  
deed herewith filed as an answer  
to be delivered upon the full pay-  
ment of said purchase money.  
This deed here filed as a part  
of this bill marked "A." shows the  
Contract price agreed to be paid to  
be \$75. Forty of which has been  
paid leaving still due \$35; for this  
last sum the said Ely on the day  
first herein named executed his  
bond for the payment thereof twelve  
months after the date thereof - no  
part of which has been paid

This bond marked "B" is also here-  
with filed marked as part hereof.

Under this state of facts which  
your orator alleges to be true, he  
is advised he has and holds a lien  
upon said land for the payment



of said last named sum & interest  
from the date of said bond: And that  
said lien is enforceable in a Court  
of Equity. To enforce said lien  
and have so much of said land  
sold as may be necessary to pay  
the same is the object of this bill.

The premises considered your  
Orator prays that Lewis do be  
made a party defendant to this  
bill and answer its allegations  
upon oath, and upon a hearing  
a decree be rendered, enforcing  
said lien and selling so much of  
said ~~property~~ land as may be  
necessary to pay the same, and  
for all other further & general  
relief May your Honor issue &c.

A. L. Pridemore  
P. 2.



6 5.63  
 15.00  
 15.00  
 25.63

ad 3.00

P  
 Th. J. McDonald

Bill Chy

Lewis Ely-  
Exhibits filed.

1857. Feb. Bill filed Sp.  
 with writ order P. L.  
 against Defendant  
 11 March Order Sub. Amptk.  
 + Cause set for hearing  
 14 Decree for sale + Court  
 1888. Apr. Decree final

1886. 98  
 10

35-  
 1.75  
 35-

36.75  
 25.63  
 3.00

# 65.48



F. S. McDonald Plff }  
against } In Chy.  
Lewis Ely. Deft }

This  
Cause came on this day again  
to be heard upon the papers  
formerly read, and the report  
of A. L. Pridemore Court filed  
Jan 20<sup>th</sup> 1888 to which there are  
no exceptions, and was argued  
by Counsel - On Consideration of  
which and for reasons appear-  
ing to the Court it is adjudged  
ordered and decreed that the plff  
shall file as exhibit A. with  
his said bill be annexed can-  
celled & delivered to him the same  
only having been filed as an es-  
crow - That said sale to the plff  
be confirmed & made final and that  
the plff take & hold said land  
under his present title free from  
the defendant & those claiming un-  
der him - That the plff pay the costs  
of this suit to the proper officers  
of this Court - And no further action  
being necessary the Cause is stricken  
from the docket



F. S. McDonald

v3 Decree final

Lewis Chy

April 7, 1888

Entered Chy

OB page 125-

Oxyatt ce

Enter this

Apr. 4<sup>th</sup> 1888.

H. S. M.



L. S. McDonald Plff.

Against  
Lewis Ely seft } In chy.

This Cause  
Came on this day upon the bill  
of the plff and exhibits filed and  
the order of Publication duly made  
against the defendant, who fails  
to appear or answer, And was  
argued by Counsel. On Consideration  
whereof and for reasons to the Court  
it is adjudged ordered and de-  
creed that the plff recover from the  
defendant the sum of \$35, and  
legal interest thereon from the 8<sup>th</sup> day  
of September 1886, and the costs of this  
suit to be taxed by the clerk, And  
unless the defendant or some one  
for him pay the same within 30  
days from the rising of this Court  
then Reese D. Flanary Sheriff of this  
County will sell so much of said  
land in the bill mentioned as may  
be necessary to pay the same and  
the costs of this suit. He will  
sell the same on some Court-day  
at the front door of the Court-  
house of this County by public



out cry to the highest bidder on a credit of 6 months except so much as may be necessary to pay the costs of suit & sale he will require paid in hand; and for the residue take bonds payable to himself as ~~Commissioner~~ Sheriff bearing interest from day of sale, with approved personal security, but before proceeding to sell hereunder he will post notice on the front door of the Court House for at least 30 days and in the neighborhood where the land lies setting out time, terms and place of sale. - He will report his action to this Court at some future term & the Cause is Continued.

J. A. McDonald

2-2 Decree

Donaldson

Lewis Ealy

March 22, 1887

Entered page 22

Entered into  
102-103  
March 31, 1887



Virginia

At a Circuit Court continued and held  
Jan and etc March 31. 1887.

F. S. McDonald,

Plff.

against

Lewis Ely,

Def.

On chcy.

++ On consideration whereof, and for reasons  
appearing to the Court, It is adjudged, ordered and  
decreed that the plaintiff recover from the Def.  
the sum of \$3000 and legal interest thereon from  
8 day of September 1886, and the costs of this suit  
to be taken by the clerk, and unless the Def. or  
some one for him pay the same within 30 days  
from the rising of this court, Then Reese D. Flanary  
Sheriff of Lee co, will sell so much of said land in  
the bill mentioned as may be necessary to pay the  
same and costs of this suit. He will sell the same  
at the front door of the court house on some court  
day, by public outcry, to the highest bidder on  
a credit of six months, except so much as will  
pay costs of suit and sale, he will require paid  
in hand, and for the residue take bonds  
payable to himself, as sheriff, bearing interest  
from day of sale, with approved personal secu-  
rity. But before proceeding to sell hereunder, he  
will post notice on the front door of the Court House  
for at least 30 days, and in the neighborhood  
where the land lies, setting out time, terms



and place of sale.

He will report his action at some future  
term, to this court, and the cause is  
continued,

A. copy. Teste

J. A. C. Hyatt - C. C. C.

J. D. McDonald

Copy of Record

203 for Court

devised Copy

Standard Copy of this

order to J. D. McDonald

J. D. C.

Order of July 68



H. S. McDonald Deft,  
vs  
Ely, Debtor

John R. McDonald this  
day personally appeared  
before me and made oath  
in due form that Lewis Ely  
deft in above styled Cause  
is a non-resident of  
the State of Virginia

Given under my  
hand this 20<sup>th</sup> January 1887.  
J. A. Hyatt



H. S. McDonald  
vs <sup>3</sup> Affidavit  
Lewis Ely

Filed Jan 20/88.  
J. A. Hyatt & Co.



To the Hon H.S.K. Moirson Judge  
of the Circuit Court of Lee  
County Va.

Your undersigned Commissioner in the chancery cause of F. S. McDonald against Lewis Ely begs leave to report that pursuant to a former order in said cause, he offered said land for sale as therein directed and upon the terms and at the place as stated - when the plaintiff became the purchaser at the price of the debt interest and cost - which was the highest and best bid offered - offered - and the plaintiff never having made any title to said land except the escrow deed filed in the cause a reconveyance to him would be useless - Your Court, accordingly a cancellation & re-declaring back to the plaintiff of said escrow deed and a confirmation of said sale - and the striking from the docket of said cause. All of which I submit  
A. L. Pickens Esq.



F. S. McDonald

v3 Report of  
Sale

Lewis Ely

Filed Jan 20 '88

J. S. Hyatt & Co.



"A"

This Deed made on this the twenty-  
fifth day of May one thousand  
Eight hundred <sup>six</sup> and Eighty ~~Eight~~ By <sup>and</sup>  
Between Frederick S. McDonald <sup>and</sup>  
Juliana his Wife of Powell County  
Kentucky of one part <sup>and</sup> Lewis Ealy of  
Lee County Virginia of the other part  
witnesseth that the said F. S. McDonald <sup>and</sup>  
Wife for <sup>and</sup> in consideration of the sum  
of Seventy five dollars except ~~Forty~~ Thirty  
five dollars which is secured by a Lien  
on the the Land here in described  
both both bargain and sold <sup>and</sup> delivered  
unto the said Lewis Ealy his heirs  
a certain Tract or parcel of Land Lying  
<sup>and</sup> Being in the County of Lee and  
State of Virginia

Bounded as follows To Wit Beginning  
on two Blackoaks in a Lane thence  
S 16 E ... 21 poles one half Rod West of  
a chestnut and Dogwood nowen as the



Harris <sup>and</sup> Folkner Corner thence with a  
Line nowen as Grabells Line Eastward  
45 poles to a sowerwood <sup>and</sup> dogwood <sup>and</sup>  
hickory thence Leaving said Line 16 West  
about 80 poles to the top of the moun-  
tain <sup>and</sup> ~~and~~ with same Westward 45 poles  
to a stake thence to the Beginning  
thence a strate Line Westward to a  
20<sup>th</sup> one half poles to two locusts from  
one root this Last Line is intended  
so as to allow the said Ealy a  
strate Lane to the Spring ten  
feet wide clear of incumberance  
and the said Ealy is to have and to  
hold the above Boundary or parcel  
of Land here by conveyed to with  
all its appertanines to the use  
of him the said Ealy <sup>and</sup> his heirs  
forever <sup>and</sup> the said H.S. Phelps and  
Julian his Wife doath hereby  
coranant with the said Lewis Ealy



To warrant generally the ~~the~~ land  
hereby conveyed against the  
claims of all persons ~~Whomever~~  
Witness ~~the~~ the following signature  
and seals day date first above  
Written

J. B. McDonald

Julia A. McDonald

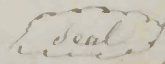


State of Kentucky Powell County  
To wit  
The ~~Wm~~ <sup>Wm</sup> Johnson and Moses Morton  
Justices of the Peace in <sup>and</sup> for the County  
of Powell in the State of Kentucky  
do certify that the said F. S. McDonald  
and Julian McDonald his Wife whose  
names are signed to this writing above  
Being date on the 25 of May  
1886 personally appeared before us in  
our County afore said and acknowledged  
the same before us and Julian <sup>orated</sup> ~~the~~  
the Wife of the said F. S. McDonald  
Being Examined Privately and apart from  
her husband and having the Writing  
above fully explained to her she the  
said Julian McDonald acknowledged  
the said Writing to be his act  
and declared that she had willingly  
executed the same and do not wish to  
retract it Given under our hands this the  
2 day of Aug 1886 ~~Wm~~ <sup>Wm</sup> Johnson J P  
Moses Morton J P



September <sup>the 8.</sup> 1885

Twelve Months after date I bind myself  
my Heirs &c to pay F. S. Rye Donated or His Heirs  
the sum of thirty five dollars, <sup>bearing interest from date</sup> it being a payment  
on a seventy five dollar tract of Land on  
Cumberland Mountain and I hereby waive my  
Homestead Exemptions as to this debt

Witness my hand and seal Lewis <sup>his</sup> + Caly   
witness Dan Harris Mark

10.00  
2.80  

---

7.20

"B"



Virginia

In the Clerk's Office of the Circuit Court for Lee County, at the Court House thereof on the 20th day of January 1887.

A. S. McDonald

Plff

Against  
Lewis Ely

Def

In Chcy.)

The Object of this suit is to enforce a purchase money lien of \$35.00 and interest thereon, and the cost of suit, against the land in the Bill mentioned, and to have so much of said land sold as will be necessary to pay said sums; And it appearing from an affidavit filed in this Cause that the Defendant Lewis Ely is a non-resident of this State: It is therefore ordered that said Lewis Ely appear here within one month after due publication of this order and do what may be necessary to protect his interest in this suit.

A Copy

A. L. Burmore & B. 3

Leete & H. Hyatt & Co.



F. S. McDonald  
U.S.  
Deputy Clerk.

I certify that I  
delivered to the  
Herald an office  
copy of this order  
for Pub. & posted  
a like copy thereof  
on the Court house  
doors at the July  
Term 1887.

J. A. Hyatt



Know all men by these pres-  
ents, that we A. L. Pindemore and  
J. Als Hyatt are held and  
firmly bound unto the Commonwealth  
of Virginia in the just and full sum  
of One Hundred Dollars, and  
for the prompt payment thereof  
well and truly to be made unto  
the said Commonwealth we each  
bind ourselves heirs &c and we  
as to this bond hereby waive our  
homestead exemptions witness  
our hands and seals this the  
16<sup>th</sup> day of May, 1887.

The Condition of the above  
obligation is such that whereas  
there was a decree entered in  
the Chancery Cause of F. S.  
McDonald vs Lewis Ely on the  
31<sup>st</sup> March 1887, which appointed  
A. L. Pindemore a Comr, and dir-  
ected him to sell certain lands  
mentioned in said bill, now  
therefore should the said A. L.  
Pindemore faithfully discharge the  
duties assigned him & properly  
account for all sums of money  
which he may receive under



this decree, then this obligation  
to be void otherwise to remain  
in full force.

A. L. Ricman Esq  
J. A. Hyatt Esq

H. S. McDonald  
Cours Bond  
no 3  
Lewis Ely

Filed May 16/1887.  
J. A. Hyatt



# The Commonwealth of Virginia,

To the Sheriff of LEE COUNTY--Greetings:

WE COMMAND YOU to summon

*Lewis Ely*

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House  
on the first Monday in *February* next, being Rule Day, to answer a  
Bill in Chancery exhibited in our Court against *him*, by *H. B.*

*McDonald*

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said  
Court, at the Court House, this *21<sup>st</sup>* day of *January* 188*7* in  
the 1 *11* year of the Commonwealth.

*J. A. G. Hyatt* Clerk.

A Copy Teste:

10  
St. S. McDonald  
no 3 Spanish  
Ewing Ely

---

To Ewing Rules 1887

---

Not executed  
the debt not  
being found  
in my bailwick

J. A. Ewing, D.S.



I J. J. Duff Pub of the 7<sup>th</sup>  
Herald a weekly news-  
paper published in Mes-  
ville do certify that the  
following non-resident  
notices appeared in the  
said paper four successive  
times, and the publishers  
Geo. B. Co. is due and unpaid  
March 27<sup>th</sup> 1887.

J. J. Duff Pub.



F. S. M. L. L. L.  
Lewis & Clark.

*[Faint handwritten text, possibly "The end of the world"]*

Sub Mer \$500



VIRGINIA : In the clerk's office of the  
Circuit Court for Lee county at the  
court-house thereon the 20th day of Jan-  
uary 1887.

F. S. McDonald,	Plst.,	} In Chancery.
vs.		
Lewis Ely,	Defst.	

The object of this suit is to enforce a purchase money lien of \$35,00 and interest thereon, and the cost of suit against the land in the bill mentioned and to have so much of said land sold as will be necessary to pay said sums; and it appearing from an affidavit filed in this cause that the defendant Lewis Ely is a non-resident of this State. It is therefore ordered that said Lewis Ely appear here within one month after due publication of this order and do what may be necessary to protect his interest in this suit. A copy  
Teste. J. A. G. HYATT, C. C.

A. L. PRIDEMORE, P. Q.